

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JOHNNY L. STALEY,

Defendant-Appellant.

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UNPUBLISHED

May 8, 1998

No. 198973

Detroit Recorder's Court

LC No. 96-002075

Before: Corrigan, C.J., and Hoekstra and Young, Jr., JJ.

PER CURIAM.

Defendant appeals by right his convictions following a bench trial of assault with intent to do great bodily harm less than murder, MCL 750.84; MSA 28.279, and possession of a firearm during the commission of a felony, MCL 750.227b; MSA 28.424(2). The trial court sentenced defendant to consecutive terms of imprisonment of one to ten years for assault and two years for felony-firearm. We affirm.

Defendant only challenges the sufficiency of the evidence to support his convictions. In reviewing the sufficiency of the evidence in a bench trial, this Court views the evidence in a light most favorable to the prosecution to determine whether a rational trier of fact could find the essential elements of the crime proven beyond a reasonable doubt. *People v Hutner*, 209 Mich App 280, 282; 530 NW2d 174 (1995). The elements of the crime of assault with intent to do great bodily harm less than murder are (1) an attempt or offer with force or violence to do corporeal harm to another (an assault) and (2) an intent to do great bodily harm less than murder. *People v Lugo*, 214 Mich App 699, 710; 542 NW2d 921 (1995). To support a conviction of felony-firearm, the prosecutor must prove that the defendant possessed a firearm during the commission of, or attempt to commit, a felony. MCL 750.227b; MSA 28.424(2); *People v Davis*, 216 Mich App 47, 53; 549 NW2d 1 (1996). Circumstantial evidence and reasonable inferences arising therefrom may constitute satisfactory proof of the elements of the offenses. *People v Truong (After Remand)*, 218 Mich App 325, 337; 553 NW2d 692 (1996).

We reject defendant's assertion that the prosecutor failed to present sufficient evidence to establish that he had a gun, fired it at the victim, and hit the victim with the butt of the gun. Both the victim and her sister testified that defendant procured a gun from his bedroom, aimed it, and shot at the victim's head. Defendant missed only because the victim moved. Defendant then struck the victim on the head with such force that he broke the butt of the gun. Further, other evidence supported the victim's testimony. A police officer observed a bullet hole in the window of the room in which the incident occurred. An investigator later retrieved the broken butt of a gun from this same room, which the victim's sister identified as the one defendant used to hit the victim. Viewing this evidence in a light most favorable to the prosecution, we conclude that the evidence was sufficient to permit a rational trier of fact to conclude that defendant assaulted the victim, intended to do great bodily harm, and possessed a firearm during the commission of a felony. It was for the trier of fact to determine witness credibility and weigh this evidence against defendant's denial that he possessed a gun. *People v Wolfe*, 440 Mich 508, 514-515; 489 NW2d 748, amended 441 Mich 1201 (1992).

Affirmed.

/s/ Maura D. Corrigan  
/s/ Joel P. Hoekstra  
/s/ Robert P. Young, Jr.